

MONTANA LEGISLATIVE HISTORY

Chapter 409 19 81

Bill H 533 S _____ Original bill & history C

H. Committee on Natural Resources

S. Committee on Taxation

Hearing Date(s) Feb 09 ☒ C

Hearing Date(s) Mar 18 ☒ C

Feb 18 ☒ C

_____ ☐ C

_____ ☐ C

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_____ ☐ C

_____ ☐ C

Date Out Feb 18 ☒ C

Mar 18 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

BILL KILLED ON 3RD READING: 2/25

FARDLEY—TO INCREASE THE TRUSTEES' FEE AND THE ATTORNEYS' FEE
TRUST INDENTURE IS REINSTATED.

INTRODUCED: 1/28

REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 1/28

HEARING: 2/13

BILL DIED IN COMMITTEE

KEEDY—TO PROVIDE A PERSON ACCESS TO HIS MEDICAL RECORDS.

INTRODUCED: 1/28

REFERRED TO COMMITTEE ON JUDICIARY: 1/28

HEARING: 2/4

REPORT: DO PASS, 2/11

2ND READING: 2/14, YEAS: 77; NAYS: 14

3RD READING: 2/17, YEAS: 90; NAYS: 10

TRANSMITTED TO SENATE: 2/17

REFERRED TO COMMITTEE ON PUBLIC HEALTH: 2/18

HEARING: 3/6

REPORT: 3/12, BE NOT CONCURRED IN,

YEAS: 32; NAYS: 17

BILL KILLED IN COMMITTEE

WOEDTVEDT, M. ANDERSON, BOYLAN, ET AL—TO APPROPRIATE FUNDS TO
DEPARTMENT OF ADMINISTRATION FOR PLANNING, SITE PREPARATION, AND
CONSTRUCTION OF LANDFILL TRANSFER STATIONS IN BOZEMAN, LOGAN, AND
THIS....

INTRODUCED: 1/28

REFERRED TO COMMITTEE ON APPROPRIATIONS: 1/28

BILL DIED IN COMMITTEE

HUENNEKENS—TO REMOVE THE REQUIREMENT THAT THE VALUE OF
STATE-OWNED COAL BE DEFINED AS THE VALUE AFTER TAXES FOR ROYALTY
PURPOSES.

FISCAL NOTE: REQUIRED

INTRODUCED: 1/28

REFERRED TO COMMITTEE ON NATURAL RESOURCES: 1/28

HEARING: 2/9

REPORT: DO PASS AS AMENDED, 2/18

2ND READING: 2/21, YEAS: 77; NAYS: 10

3RD READING: 2/24, YEAS: 96; NAYS: 3

TRANSMITTED TO SENATE: 2/24

REFERRED TO COMMITTEE ON TAXATION: 3/2

HEARING: 3/18

REPORT: 3/19, BE CONCURRED IN, AS AMENDED

2ND READING: 3/24, BE CONCURRED IN

3RD READING: 3/26, YEAS: 46; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 3/26

2ND READING: 4/8, YEAS: 90; NAYS: 1

3RD READING: 4/9, YEAS: 96; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/13

ACTION: SIGNED, 4/17

CHAPTER 407

HUENNEKENS—TO CLARIFY THE LAWS RELATING TO ADMINISTRATIVE
ENFORCEMENT OF SUPPORT FOR DEPENDENT CHILDREN....

MINUTES OF THE MEETING OF THE NATURAL RESOURCES COMMITTEE
FEBRUARY 9, 1981 HOUSE

The House Natural Resources Committee convened in Room 104 of the Capitol Building on Monday, February 9, 1981, at 12:30 p.m. with CHAIRMAN DENNIS IVERSON presiding and eighteen members present.

CHAIRMAN IVERSON opened the hearing on HB 533.

HOUSE BILL 533 REP. HERB HUENNEKENS, sponsor, presented the bill which would remove the requirement that the value of state-owned coal be defined as the value before taxes for royalty purposes. He said this bill is not complicated and deals with state coal leases.

REP. HUENNEKENS then presented DAVID WOODGERD of the Department of State Lands who testified as a proponent. See Exhibit 1. MR. WOODGERD stated that this will not change the amount the state receives but rather the manner in which it is calculated.

There were no OPPONENTS.

REP. HUENNEKENS closed on the bill.

During questions from the committee, REP. NORDTVEDT asked why change if it just involves bookkeeping. MR. WOODGERD stated that we could better determine how much the state is getting. It appears we are getting a higher royalty when in fact we are not.

REP. SALES said nothing shows how much the state makes and that the people make less. REP. HUENNEKENS stated that the point is that the state is required to get maximum value. This is using the same figures as when the public is involved.

The hearing on HB 533 closed and the hearing on HJR 13 opened.

HOUSE JOINT RESOLUTION 13 REP. BURT HURWITZ, chief sponsor, presented the resolution which would support actions by other western states to gain control of certain public lands within the states' boundaries. He felt Montana lands can be better managed by people in Montana. We want to be consulted about the management of our lands.

REP. REX MANUEL, another sponsor, stated that a resolution is a message to Congress voicing opinions. This one would tell Congress that we do not like what is happening to our grazing lands.

REP. HAROLD BRIGGS gave a brief overview of how certain lands became federally controlled. There are currently about 16 million acres of forest lands and about 8 million acres of BLM land. The total revenue in Montana on federal lands is about 19 million dollars and on state lands about 11 million dollars.

TESTIMONY

HB 533

This bill concerns the manner in which the state must calculate its royalty when it leases land for coal mining. Pursuant to section 15-35-109 MCA the state is required to calculate its royalty in a different manner than other coal owners. A private or federal coal mining lease normally provides for a royalty which is a certain percentage such as 12½% of the coal contract price. The coal contract price is the price paid the mining company for the coal when it is loaded on the train at the mine site.

The language which this bill would repeal requires that the state calculate its royalty on the price as defined in section 15-35-102 MCA which is the coal contract price minus taxes. A copy of this definition as it appears in section 15-35-102 MCA is attached. As an example, the contract price the mining company receives for the coal may be \$10.00 per ton but \$3.00 of this price may be taxes on production which the company is passing through to the purchaser. Therefore, the state would be required to subtract \$3.00 from contract price before calculating its royalty. A 12½% royalty on \$10.00 coal is considerably more money than a 12½% royalty on \$7.00 coal.

In a recent coal mining lease issued to Western Energy Company the state required an 18% royalty in order to compensate for this problem. An 18% royalty on coal valued at \$7.00 is approximately equal to a 12½% royalty on coal valued at \$10.00. A copy of the royalty provision in the Western Energy Company lease is attached.

The department would like to change the requirement that taxes be subtracted from the contract price of the coal before the royalty is calculated as the present language causes confusion and makes it difficult to determine whether the state is receiving full market value for its coal. Also, since the state has to charge a higher royalty than other coal owners it appears that the state is forcing up the market value of coal, when in reality it is leasing at the market value.

STATE OF MONTANA COAL LEASE

Lease No. C1063-80

This indenture of lease made and entered into between the State of Montana, by and through its lawfully qualified and acting State Board of Land Commissioners, hereinafter referred to as lessor, and the person, company or corporation herein named, hereinafter referred to as lessee, under and pursuant to the terms and provisions of Title 77, Chapter 3, Part 3, MCA (Title 81, Chapter 5, Revised Codes of Montana, 1947), all acts amendatory thereof and supplementary thereto, and all rules and regulations adopted pursuant thereto,

WITNESSETH,

The lessor, in consideration of the rents and royalties to be paid and the conditions to be observed as hereinafter set forth, does hereby grant and lease to the lessee, for the purpose of mining and disposing of coal and constructing all such works, buildings, plants, structures and appliances as may be necessary and convenient to produce, save, care for, dispose of and remove said coal, all the lands herein described, as follows:

Date this lease takes effect: May 8, 1980.

Name of lessee: Western Energy Company.

Address of lessee: 404 N. 31st, Billings, Montana 59101.

Land located in Rosebud County.

Description of land: Township 2 North, Range 40 East
Section 36: SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{4}$ W $\frac{1}{4}$ SE $\frac{1}{4}$

Total number of acres: 170, more or less, belonging to School Grant.

Annual rental: \$25.05 per acre for the first year of the lease and \$3.00 per acre per year for each succeeding year of the primary term of ten years.

Royalties: At a rate of 18 percent of the value of the coal as defined herein. An advance royalty of \$50,000.00 shall be due following the third year and every year thereafter until production begins. Advance royalties shall be credited against production royalties. (It is important to note that 18% royalty on the value of coal as defined in this lease is equivalent to a 12 $\frac{1}{2}$ % royalty on the value of coal as normally defined to include taxes paid on production.)

This lease is granted for a primary term of ten years and so long thereafter as coal in commercial quantities shall be produced from the land, subject to all of the terms and conditions herein set forth; however, if at the end of the primary term the land described in this lease is also described in a strip mine permit issued under section 82-4-221 MCA or in a mine site location permit under section 82-4-122 MCA, this lease shall not be terminated for non-production so long as the land remains under valid permit.

(a) coal is the only mineral which can supply energy while being easily found in abundance in Montana;

(b) coal is the only mineral which is so often marketed through sales contracts of many years' duration;

(c) coal, unlike most minerals, varies widely in composition and consequent value when marketed;

(d) coal in Montana is subject to regional and national demands for development which could affect the economy and environment of a larger portion of the state than any other mineral development has done;

(e) coal in Montana, when subbituminous and recoverable by strip mining, is in sufficient demand that at least one-third of the price it commands at the mine may go to the economic rents of royalties and production taxes;

(f) coal in the lignite form is in less demand and producers of lignite are able to pay lesser amounts of royalty and production tax than producers of subbituminous can pay;

(g) coal produced in underground mines has higher production costs and underground producers are able to pay lesser amounts of royalty and production tax than strip-mine producers can pay;

(h) coal production in Montana has been subject to an uncoordinated array of taxes which overlap one another and yield revenue in an inconsistent and unpredictable manner.

(2) The legislature declares that the purposes of this chapter are to:

(a) allow the severance taxes on coal production to remain a constant percentage of the price of coal;

(b) stabilize the flow of tax revenue from coal mines to local governments through the property taxation system;

(c) simplify the structure of coal taxation in Montana, reducing tax overlap and improving the predictability of tax projections; and

(d) accomplish the foregoing purposes by establishing categories of taxation which recognize the unique character of coal as well as the variations found within the coal industry.

History: En. 84-1312 by Sec. 1, Ch. 525, L. 1975; R.C.M. 1947, 84-1312.

15-35-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Contract sales price" means either the price of coal extracted and prepared for shipment f.o.b. mine, excluding that amount charged by the seller to pay taxes paid on production, or a price imputed by the department under 15-35-107.

(2) "Department" means the department of revenue.

(3) "Energy conversion process" includes any process by which coal in the solid state is transformed into slurry, gas, electric energy, or any other form of energy.

(4) "Produced" means severed from the earth.

(5) "Strip mining" or "surface mining" is defined in 82-4-203.

(6) "Taxes paid on production" includes any tax paid to the federal, state, or local governments upon the quantity of coal produced as a function of either the volume or the value of production and does not include any tax upon the value of mining equipment, machinery, or buildings and lands, any

MINUTES OF THE MEETING OF THE NATURAL RESOURCES COMMITTEE
FEBRUARY 18, 1981

The House Natural Resources Committee convened in Room 437 of the Capitol Building on Wednesday, February 18, 1981, at 8:15 p.m. with CHAIRMAN DENNIS IVERSON presiding and seventeen members present (REP. SALES was excused).

EXECUTIVE SESSION HOUSE BILL 533 REP. HUENNEKENS moved DO PASS on some amendments. He then explained the changes. One corrected when the royalty would be paid and the other repealed rather than amended a section of Montana code. A third amendment raised the royalty to give the state the same return as the private sector. The motion PASSED.

REP. HUENNEKENS moved the bill DO PASS AS AMENDED. The motion PASSED.

HOUSE BILL 697 REP. BERTELSEN moved DO PASS on amendments prepared by MS. SCHMIDT. She explained that subsection 3 states what must be contained in the license. The agency must have limited rule-making authority and one amendment went along with the Statement of Intent which is attached as Exhibit 1. The motion on the amendments PASSED.

A motion of DO PASS on the Statement of Intent was made by REP. QUILICI and PASSED.

REP. CURTISS moved DO PASS on amendments submitted by the Montana Mining Association, but asked that they be separated.

The first amendment changed "has complied with" to "is aware of". REP. HUENNEKENS moved DO NOT PASS on that amendment because he felt awareness and compliance are not the same thing. The motion failed.

REP. BROWN moved the second amendment which inserted "a". The motion PASSED.

REP. CURTISS moved DO PASS on the third and fourth amendments. REP. HUENNEKENS opposed the motion saying there has to be some control over where the dredges are. The motion of DO PASS failed.

REP. MUELLER moved the bill DO PASS AS AMENDED. The motion PASSED with REPS. BURNETT, CURTISS, ROTH and COZZENS opposing.

HOUSE BILL 628 REP. CURTISS moved DO PASS.

REP. MUELLER felt the state did not intend to get into the power business. He further stated that the BPA should not dictate what anyone will get for power and that reference to 10 percent in the bill should be eliminated. REP. MUELLER then moved to amend the bill by deleting subsection 3, lines 22, 23, and 24, relating to royalty payments. The motion PASSED.

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE CAPITOL *SENATE*

March 18, 1981

The 50th meeting of the committee was called to order at 7:30 a.m. in Room 415 of the State Capitol Building, Chairman Pat Goodover presiding.

ROLL CALL: All members present, except Senator Healy absent.

DISPOSITION OF SENATE BILL 466:

Senator Towe moved the amendments to SB 466. The amendments were adopted unanimously by the committee. Senator Steve Brown moved that SB 466 DO PASS, as amended. Motion carried unanimously. Senator Graham will carry the bill.

DISPOSITION OF HOUSE BILL 63:

Amendment language was discussed for the bill. The amendments were to tax those people who hadn't paid taxes when they earned the money to pay taxes when they get the retirement money. Senator Towe moved the amendments and they were adopted unanimously. Senator Towe moved HB 63 BE CONCURRED IN, as amended. Senator Towe requested the bill be held so it wouldn't appear on the floor until Saturday, March 21.

CONSIDERATION OF HOUSE BILL 533:

"AN ACT TO REMOVE THE REQUIREMENT THAT THE VALUE OF STATE-OWNED COAL BE DEFINED AS THE VALUE BEFORE AFTER TAXES FOR ROYALTY PURPOSES; AMENDING REPEALING SECTION 15-35-109, MCA."

Representative Herb Huennekens, Billings, said HB 533 is as simple as a bill can get. It repeals two sections. He requested a change in the title. He continued by saying that when the State arranged royalty on coal, that the royalty be applied after taxes were paid. Only the state was using it. Private individuals and government all applied the royalty before the taxes were paid. This bill puts the State on exactly the same footing as the government. A contract was negotiated with Montana Power Company which carried out this procedure where the state was getting 18% as opposed to the general public or the lease holder.

PROPOSERS: Dave Woodgerd, Department of State Lands.

There were no more proponents, no opponents, so questions were called from the committee.

TOWE: What's the value as defined in 15-35-102? Was that the pyramiding?

March 18, 1981
page 2

WOODGERD: Price at mine mouth or delivery point, minus tax.

TOWE: By defining value the same as taxes, that's a value after taxes--do most people do it before taxes?

WOODGERD: If the state has coal to lease it can draw the same royalty as any private or federal government can draw.

ECK: Do you see any possible connection with this and the severance tax.

HUENNEKENS: None.

TOWE: When we prepared SB 344 we copied the same section. Are you suggesting we have to strike that?

HUENNEKENS: Yes.

The hearing was closed on House Bill 533.

CONSIDERATION OF HOUSE BILL 539:

"AN ACT TO LIMIT TAXABLE VALUE ON RESIDENTIAL PROPERTY;
AMENDING SECTION 15-8-111, MCA."

Representative Huennekens said the problem is one receiving national attention--the matter of limitation on property tax. Montana mentions true market value and current market value. That produces problems for taxpayers. When you get to the ultimate amount for taxes, we use a mill levy system which allows the local government to decide. In HB 539 a concept of current year true market value is defined--the value residences would have as of January 1 this year if appraised by several appraisers or one good one. That is the value the residence has. We apply to this value a 5% multiplier and then arrive at the maximum amount of taxable value. We are taking the present ratio of what we call true market value to true market which varies from 50 to 55% and then apply a .0855 factor to arrive at taxable value. What we come up with is the relationship that would be 1-1 1/2% of the actual money you pay on taxes. Based on 250-mill multiplier, 25% of that is 1 1/4%. There must not be more than a 5% increase assessed. Take \$100,000 true market value, it would come out at \$50,000, multiply that by .0855 and if that figure is greater than \$5,000 it is too high and the tax board will have to change that figure.

OPPONENTS: John Clark, Department of Revenue, was not a strict opponent but wanted to raise questions and talk about implications. In 1977 the legislature removed distinction between market value and assessed value. What this will do is restore that particular third step for only residential properties because mathematics of this particular problem says if your appraisal is 58.8% or greater than the market

March 18, 1981
page 8

Senator Severson thought we should get SB 102 back and consider it with HB 541.

The chairman thought both bills should be gone over and then we could get the two bills together. It was decided to put the bill through here and hold it. Then, when SB 102 goes through, both will go into a subcommittee meeting of the House and Senate.

DISPOSITION OF HOUSE BILL 540:

Senator Towe made a motion that HB 540 BE CONCURRED IN. The motion carried unanimously. Senator Crippen will carry.

DISPOSITION OF HOUSE BILL 539:

Senator Towe made a motion to amend page 1, line 10 following words "value on" and add "real estate and improvements used as". The amendment was approved. Senator Manley made a motion that the bill be passed as amended.

Senator Hager wanted to address the problem of multiple appraisals--thought we should strike "all" and put in "both".

Substitute motion by Senator Towe: Strike the word "acceptable" on line 18. "If the county tax appeal board does not accept the appraisal, it may, at the taxpayer's expense, hire its own qualified appraiser."

Manley asked to supersede all motions and ask that the bill be given a DO NOT PASS. The motion carried by 7 - 4.

Senator Towe withdrew his motion.

It was decided to have the secretary write a letter to DOR and say it is the wish of this committee that they devise a formula to get a notice to the taxpayers providing instructions on how taxes can be computed on their property.

DISPOSITION OF HOUSE BILL 533:

Page 1, line 7, strike word "after" and insert "before", the amendments were voted and approved. A motion was made to give a BE CONCURRED IN, as amended. The motion carried unanimously.

DISPOSITION OF SENATE BILL 476:

Senator Towe mentioned that SB 476 had been brought back to the committee and he has discussed amendments. Senator Towe made a series of amendment proposals and then moved they be adopted. He said the effect of the amendments is that we limit only to municipalities and school districts. A vote on the amendments showed they carried. Senator Goodover voting no.

Senator Severson said the committee sponsored bill had been

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 3/18/81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat M., Chairman	✓		
McCallum, George, Vice	✓		AT
Brown, Bob	✓		
Brown, Steve	✓		
Crippen, Bruce D.	✓		
Eck, Dorothy	✓		
Elliott, Roger H.	✓		
Hager, Tom	✓		
Healy, John E. "Jack"		✓	AT
Manley, John E.	✓		
Norman, Bill	✓		
Ochsner, J. Donald	✓		
Severson, Elmer D.	✓		
Towe, Thomas E.	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

March 13 81

19

PRESIDENT:

MR.

TAXATION

We, your committee on

House

533

having had under consideration Bill No.

(Huennekens (S. Brown)

House

533

Respectfully report as follows: That..... Bill No.

third reading copy, be amended as follows:

1. TITLE, line 7.

Following: ~~"BEFORE"~~

Strike: "AFTER"

Insert: "BEFORE"

And, as so amended,

BE CONCURRED IN

~~XXXXXX~~
DO PASS